

110TH CONGRESS
2D SESSION

H. R. 5429

To amend the Marine Mammal Protection Act of 1972 to authorize appropriations for marine mammal cooperative management agreements in Alaska, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2008

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Marine Mammal Protection Act of 1972 to authorize appropriations for marine mammal cooperative management agreements in Alaska, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marine Mammal Coop-
5 erative Agreements in Alaska Amendments Act of 2008”.

6 **SEC. 2. COOPERATIVE AGREEMENTS IN ALASKA.**

7 (a) DEFINITION OF DEPLETION AND DEPLETED.—

8 Section 3(1)(A) of the Marine Mammal Protection Act of

1 1972 (16 U.S.C. 1362(1)(A)) is amended by striking “of
 2 this Act,” and inserting “and, for any stock subject to a
 3 cooperative agreement with a harvest management plan
 4 entered into under section 119, those Alaska Native orga-
 5 nizations that are signatories to such an agreement,”.

6 (b) EXEMPTION OF TAKINGS FOR SUBSISTENCE OR
 7 AUTHENTIC NATIVE ARTICLES.—Section 101(b) (16
 8 U.S.C. 1371) is amended by striking “section 109” and
 9 inserting “sections 109 and 119(c)”.

10 (c) USE OF ALASKA NATIVE ORGANIZATIONS FOR
 11 ENFORCEMENT.—Section 107(a) (16 U.S.C. 1377(a)) is
 12 amended by inserting “, or of an Alaska Native organiza-
 13 tion for purposes of enforcing this title pursuant to a har-
 14 vest management plan with the organization under section
 15 119” before the period at the end.

16 (d) MARINE MAMMAL COOPERATIVE AGREEMENTS
 17 IN ALASKA.—Section 119 (16 U.S.C. 1388) is amended
 18 to read as follows:

19 **“SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS**
 20 **IN ALASKA.**

21 “(a) MARINE MAMMAL COOPERATIVE AGREEMENTS
 22 IN ALASKA.—

23 “(1) IN GENERAL.—The Secretary may enter
 24 into cooperative agreements with Alaska Native or-
 25 ganizations to conserve and manage any stock of

1 marine mammals and provide comanagement of sub-
2 sistence use by Alaska Natives. Such agreements
3 may include, among other purposes—

4 “(A) the collection and analysis of popu-
5 lation data;

6 “(B) harvest monitoring;

7 “(C) participation in marine mammal re-
8 search;

9 “(D) development of marine mammal co-
10 management structures;

11 “(E) collection of biological specimens;

12 “(F) educational and scientific displays;

13 “(G) a harvest management plan gov-
14 erning Alaska Native subsistence use for those
15 stocks or species covered by the cooperative
16 agreement; and

17 “(H) reporting requirements.

18 “(2) CONSULTATION.—The Secretaries shall
19 consult with each other in the development of coop-
20 erative agreements to ensure consistency in the im-
21 plementation of this section.

22 “(3) REPORTING REQUIREMENTS.—

23 “(A) REPORTS BY PERMITTEES.—All
24 transfers of marine mammal specimens col-
25 lected under subsection (a)(1)(E) shall be in-

1 cluded in reports under section 104(c)(1) from
 2 scientific researchers who receive the specimens
 3 under authority granted under that section.

4 “(B) REPORTS BY ALASKA NATIVE ORGA-
 5 NIZATIONS.—An Alaska Native organization
 6 shall—

7 “(i) maintain an inventory of all ma-
 8 rine mammal parts used in a display under
 9 subsection (a)(1)(F); and

10 “(ii) provide periodic reports to the
 11 Secretary on such use.

12 “(b) MANAGEMENT PLAN REQUIREMENTS.—

13 “(1) IN GENERAL.—A harvest management
 14 plan established under a cooperative agreement
 15 under this section with an Alaska Native organiza-
 16 tion shall—

17 “(A) apply only to Alaska Natives, in-
 18 cluded in the exemption under section 101(b);

19 “(B) identify the signatories to the plan,
 20 and the stock or species and geographic area
 21 covered by the plan;

22 “(C) be based on biological information
 23 and traditional ecological knowledge;

24 “(D) provide for a sustainable harvest of
 25 each stock or species covered by the plan, and

1 be designed to prevent populations of such
2 stocks and species from becoming depleted;

3 “(E) have a clearly defined process and
4 authority for enforcement and implementation
5 of any management prescriptions under the
6 plan; and

7 “(F) specify the duration of the plan and
8 set forth procedures for periodic review and ter-
9 mination of the plan.

10 “(2) RESPONSIBILITIES OF ALASKA NATIVE OR-
11 GANIZATION.—A harvest management plan estab-
12 lished under a cooperative agreement under this sec-
13 tion must require the Alaska Native organization
14 to—

15 “(A) monitor compliance by Alaska Na-
16 tives with the terms of harvest management
17 plan;

18 “(B) administer its management of marine
19 mammals in accordance with the terms of the
20 harvest management plan; and

21 “(C) report to the Secretary on actions
22 taken to implement the agreement and the har-
23 vest management plan.

24 “(c) IMPLEMENTING REGULATIONS AND ORDI-
25 NANCES.—

1 “(1) REGULATIONS BY SECRETARY.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B), the Secretary—

4 “(i) shall promulgate such regulations
5 as are necessary to carry out this section;
6 and

7 “(ii) may promulgate regulations that
8 implement any ordinance, regulation, or
9 other provision that—

10 “(I) is included in an Alaskan
11 Native organization harvest manage-
12 ment plan established under a cooper-
13 ative agreement; and

14 “(II) restricts the taking or use
15 of marine mammals for subsistence
16 purposes consistent with such plan.

17 “(B) LIMITATION.—The Secretary may
18 not promulgate any regulation under subpara-
19 graph (A) unless the regulation—

20 “(i) is necessary to carry out this sec-
21 tion;

22 “(ii) is no more restrictive than any
23 taking limit or other restriction contained
24 in the harvest management plan adopted
25 by the Alaska Native organization and im-

1 plemented by the Secretary in accordance
2 with this section; and

3 “(iii) is necessary to improve compli-
4 ance with any taking limit or other restric-
5 tion in a harvest management plan that is
6 adopted by the Alaskan Native organiza-
7 tion and implemented by the Secretary in
8 accordance with this section.

9 “(2) DEPLETED STOCKS.—A regulation or ordi-
10 nance adopted by an Alaska Native organization in
11 a harvest management plan for a depleted stock
12 shall apply only to the extent the regulation or ordi-
13 nance is consistent with regulations issued by the
14 Secretary under sections 101(b) and 103 that apply
15 to such stock.

16 “(d) PROHIBITION.—It is unlawful for any Alaska
17 Native within the geographic area to which a harvest man-
18 agement plan under this section applies, to take, trans-
19 port, sell, or possess a marine mammal in violation of the
20 provisions of a harvest management plan or regulations
21 promulgated under this section.

22 “(e) GRANTS.—An agreement entered into under this
23 section may, subject to the availability of appropriations,
24 include a grant by the Secretary to an Alaska Native orga-
25 nization for, among other purposes—

1 “(1) collecting and analyzing data on marine
2 mammal populations;

3 “(2) monitoring the harvest of marine mam-
4 mals for subsistence and handicraft uses;

5 “(3) participating in marine mammal research
6 conducted by the Federal Government, the State of
7 Alaska, academic institutions, or private organiza-
8 tions; and

9 “(4) developing marine mammal comanagement
10 structures with Federal and State agencies, and im-
11 plementing and enforcing any harvest management
12 plan included in the agreement.

13 “(f) ADVANCE NOTICE AND OPPORTUNITY FOR COM-
14 MENT REGARDING PROPOSED REGULATIONS.—Before
15 proposing any regulation under section 101(b) relating to
16 the taking of a stock of marine mammals that is the sub-
17 ject of a harvest management plan under this section, the
18 Secretary shall—

19 “(1) solicit recommendations for such proposed
20 regulation from each Alaska Native organization en-
21 gaged in harvest management of the species or stock
22 pursuant to this section; and

23 “(2) provide to each such organization with a
24 cooperative agreement—

25 “(A) a copy of the proposed regulation;

1 “(B) an analysis of how the proposed regu-
2 lation would achieve the goal of being the least
3 restrictive measure upon subsistence use of the
4 stock and the conservation of marine mammals;
5 and

6 “(C) an opportunity to comment on the
7 proposed regulation prior to publication of any
8 proposed regulations in the Federal Register.

9 “(g) PUBLIC NOTICE.—The Secretary shall publish
10 each harvest management plan entered into under this
11 section.

12 “(h) FACA EXEMPTION.—The Federal Advisory
13 Committee Act (5 App. U.S.C.) shall not apply with re-
14 spect to the provision of any advice or recommendations
15 to the Secretary by any Alaska Native organization (in-
16 cluding any scientific review group associated with such
17 an organization), or the obtaining of any advice or rec-
18 ommendations by the Secretary from such an organiza-
19 tion, for the purpose of formulation or implementation of
20 a cooperative agreement under this section.

21 “(i) RELATIONSHIP TO TITLE V.—Nothing in this
22 section affects title V or any authority under title V of
23 this Act.

24 “(j) EFFECT OF JURISDICTION.—Nothing in this sec-
25 tion is intended or shall be construed—

1 “(1) as authorizing any expansion or change in
2 the respective jurisdiction of Federal, State, or Trib-
3 al governments over fish and wildlife resources; or

4 “(2) as altering in any respect the existing po-
5 litical or legal status of Alaska Natives, or the gov-
6 ernmental or jurisdictional status of Alaska Native
7 communities or Alaska Native entities.

8 “(k) AUTHORIZATION OF APPROPRIATIONS.—

9 “(1) IN GENERAL.—There are authorized to be
10 appropriated for the purposes of carrying out this
11 section—

12 “(A) to the Secretary of the Interior,
13 \$3,000,000 for each of fiscal years 2007
14 through 2010; and

15 “(B) to the Secretary of Commerce
16 \$3,700,000, for each of fiscal years 2007
17 through 2010 of which not less than \$300,000
18 shall be for payment to the Indigenous People’s
19 Council for Marine Mammals, or its successor
20 organization, for administrative expenses and
21 statewide coordination between its member
22 Alaska Native Organizations.

23 “(2) ADMINISTRATIVE COSTS.—Of the amounts
24 authorized under this section for each of the Sec-
25 retary of Commerce and the Secretary of the Inte-

1 rior, not more than 5 percent may be used for agen-
2 cy administrative costs.

3 “(l) REPORT TO CONGRESS.—The Secretaries shall
4 each issue a report to Congress on—

5 “(1) actions taken to implement this section;
6 and

7 “(2) the use of funds authorized by this section
8 by the Secretaries and Alaska Native organizations,
9 including the Indigenous People’s Council for Ma-
10 rine Mammals.

11 “(m) INDIGENOUS PEOPLE’S COUNCIL FOR MARINE
12 MAMMALS DEFINED.—For the purpose of this section the
13 term ‘Indigenous People’s Council for Marine Mammals’
14 means a consortium of Alaska Native organizations that
15 are engaged in the conservation and comanagement of
16 subsistence use of marine mammals by Alaska Natives.”.

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